

PUBLIC UTILITIES COMMISSION

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October 25, 2017

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Re: Order to Preserve Evidence

Dear PG&E and Communication Utilities Representatives:

On October 12 and 13, 2017, the Safety and Enforcement Division (SED) issued a directive to Pacific Gas & Electric (PG&E) and the communication utilities (AT&T, AT&T Wireless, Frontier, Comcast, Verizon Wireless, T-Mobile, and Sprint, and their affiliates) respectively, to preserve all evidence with respect to wildfires that started overnight on October 8, 2017 in Napa, Sonoma, and Solano Counties. This letter updates the October 12 and 13 directives, and clarifies the procedures to notify and coordinate with SED regarding the preservation of evidence.

The scope of the directive is expanded to include any wildfires that have started between October 8 and today's date in Butte, Calaveras, Lake, Mendocino, Napa, Nevada, Sonoma, and Yuba Counties and may be attributable, or allegedly attributable, to utility facilities, including the Atlas, Bear, Cascade, Cherokee, Highway 37, LaPorte, Lobo, McCourtney, Nuns (including Adobe, Norrbom, Partrick, and Pressley), Pocket, Point, Pythian, Redwood Valley/Potter Valley, Sulphur, and Tubbs fires.

With regards to preserving any factual or physical evidence under its, or its agent's, physical control, custody or possession related to these fires, SED provides the following guidance:

1. For CAL FIRE investigation sites that involve utility facilities and have not been cleared by CAL FIRE, PG&E and the communication utilities shall continue to coordinate with CAL FIRE regarding access to the sites and removal of any factual or physical evidence. This expectation would apply to any investigation sites that CAL FIRE might open or re-open in the future, until CAL FIRE clears the site.
2. For investigation sites preserved and then cleared by CAL FIRE that PG&E or communication utilities plan to visit on a future date, PG&E and the communication utilities shall notify SED staff via e-mail or phone, at least 24 hours in advance.
3. For CAL FIRE investigation sites that involve utility facilities, and also for areas that are outside of CAL FIRE investigation sites but are related to a reportable incident or otherwise related to a wildfire that is attributable or allegedly attributable to utility facilities, PG&E and the communication utilities shall notify SED staff via e-mail within 24 hours after evidence is collected by PG&E and the communication utilities. The collected evidence shall be catalogued using existing procedures and at a minimum include a brief description of the type of evidence collected, location where the evidence was collected, the relevant CAL FIRE name of fire, storage location (if evidence is being stored), and date and time collected.
4. With regards to evidence previously retained by PG&E and the communication utilities at a CAL FIRE investigation site or in relation to a reportable incident or otherwise related to a wildfire that is attributable or allegedly attributable to utility facilities, the same procedure shall be followed for documenting evidence as detailed in item 3 above. PG&E and the communication utilities shall notify SED staff via e-mail of the previously retained evidence within 10 business days of the date of this letter.

5. PG&E and the communication utilities shall inform SED within 10 business days of the date of this letter if any physical evidence related to CAL FIRE investigation sites that involve utility facilities or any physical evidence related to a reportable incident, or otherwise related to a wildfire that is attributable or allegedly attributable to utility facilities, has already been destroyed.
6. Equipment identified as posing an immediate hazardous threat to either persons and/or the environment should be removed from a wildfire site immediately. The hazardous equipment and the removal/disposal of the equipment in question shall be documented, recorded and a record maintained so that all equipment removed from the site is accounted for throughout any SED investigations.
7. Factual evidence, including but not limited to internal and external communications, call logs, network performance monitoring records, emails, electronic (including emails) and non-electronic documents related to potential causes of the fires, vegetation management, maintenance and/or tree-trimming, and any other documents related to the wildfires and the resulting injuries, death, and destruction, must also be preserved. In addition, PG&E and the communication utilities must inform all employees and contractors that they must preserve all such records.

This directive does not obviate the need for PG&E and the communication utilities to comply with all other applicable laws and regulations.

Please contact me if you have any questions concerning this preservation order.

Sincerely,



Elizaveta Malashenko

Director

Safety and Enforcement Division

cc: President Michael Picker
Commissioner Carla Peterman
Commissioner Liane Randolph
Commissioner Cliff Rechtschaffen
Commissioner Martha Guzman Aceves